IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL REVISION APPLICATION NO. 422 OF 2007**

Mazgaon Dock Ganesh Co-op.Hsg.Society Ltd., .. Applicant.

V/s.

Liladhar Parab Architects & Designers Pvt.Ltd., .. Respondent.

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Mr.Uday Warunjikar for the Applicant.

Mr.A.G.Damale for the Respondent.

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**CORAM : S. A. BOBDE, J.**

**DATED : 24th SEPTEMBER, 2007.**

**P.C. :-**

. Admit. Taken up for final hearing and disposal by consent.

2. After hearing the matter for some time, the following order is passed by consent.

i. The impugned order dated 27th August, 2007 is hereby set aside.

ii. The trial court shall consider the application under Order 7, Rule 11 of the CPC

afresh having regard to the terms of the alleged notice and whether it was delivered to the registrar or whether there is a statement to the effect that the notice was served as contemplated under section 164 of the Maharashtra Co-op.Societies Act. The trial court shall also consider, whether the plaint on the face of it, is barred by Order 7 Rule 11, taking into account all aspects of the matter and the law laid down by this court in the case of **Suprabhat Co-op.Hsc.Society Ltd., vs. Span Builders & Anr., reported in 2002 (3) Mh.L.J.-837** and in any other decision relevant to the point.

iii. The trial court is directed to decide the application as early as possible. The trial court shall decide the application before proceeding with the suit or shall not adjourn the consideration of the application for leading of the evidence.

3. All issues on merits are left open.

4. The civil revision application is disposed of in the above terms.

(S.A.BOBDE,J.)